



**MINUTES OF THE GILA COUNTY
BOARD OF ADJUSTMENT**

Thursday, August 16, 2018

GILA COUNTY BOARD OF SUPERVISORS CONFERENCE ROOM

610 E. Highway 260, Payson, AZ

GILA COUNTY COMMUNITY DEVELOPMENT CONFERENCE ROOM

745 N. Rose Mofford Way, Globe, AZ

9:00 A.M.

REGULAR MEETING

1. The meeting was called to order at 9:00 A.M. by Chairman Don Ascoli.
2. Pledge of Allegiance was led by Chairman Don Ascoli.
3. Roll Call: Therese Berumen did the roll call; Chairman Don Ascoli (in Payson), Terry Otts (in Globe), Mickie Nye (in Globe), Mary Lou Myers (in Payson) and Bill Marshall (in Globe) are all present. A quorum is present.

Community Development Staff Members Present: Scott Buzan-Director, Michelle Dahlke-Senior Planner, and Therese Berumen-Administrative Assistant.

4. Review and Approval of the Board of Adjustment Minutes on May 17, 2018. Chairman Don Ascoli asked if there were any changes needed to the minutes. No changes were suggested. Mary Lou Myers motioned that the minutes be approved as is and Terry Otts seconded the motion. The motion was unanimously approved.
5. **Director/Planner Communication:** At any time during this meeting of the Board of Adjustment, Director Scott Buzan and/or Planner Michelle Dahlke of Community Development may present a brief summary of current events. No action may be taken.

Scott Buzan introduced Michelle Dahlke as our new Senior Planner. She is working on a contract basis. She works out of her home and will come to the Globe or Payson office as needed. Therese Berumen is her contact person in Globe to make sure everything runs smoothly. We are thrilled to death to have her. Michelle Dahlke stated that she has been a planner for about 20 years, with half the time being spent in the public sector and the other part being spent on a contract basis. I also sit on the City of Mesa's Planning and Zoning Board. I am hoping the well-rounded experience I have will prove successful here in the Payson and Globe area.

Appeals:

6. **AV-18-10 Julie Griesa:** Community Development Staff approved AV-18-10, a request to obtain a 3-foot side yard setback for an existing exempt structure. Application was appealed by Jennifer James on July 30, 2018.

Michelle Dahlke presented the staff report overview. The Administrative Variance application that was originally submitted was for an existing shed that was on the property. We felt the first shed was appropriate and we did recommend the approval of the 3-foot setback instead of moving the shed 3-feet towards the house. It was brought to our attention that there is a second

shed by Ms. James, which is located right behind the first shed and has approximately the same setback distance as the first shed. Ms. James expressed concern stating that if the first shed is going to be moved, the second shed should be moved as well. Ms. James was having some work done on her property and this is how this was brought to her attention. The property owner couldn't be here today because she is out of town, but I did speak to her about Ms. James' concerns and she did agree to move the second shed back 3-feet as well. Ms. Griesa is aware that she will need to come into the office and apply for an Administrative Variance on the second shed. We don't see a problem with approving that application and should be able to do it quickly because we would use the same criteria as we did for the first shed. I believe this would be a good situation for everybody in the end. Chairman Don Ascoli asked for clarification on which shed was number 1 and which one was number 2 and also where the property line was located. Michelle Dahlke pointed out which shed was which and Ms. James clarified where her property line was. Michelle Dahlke stated that her recommendation is for the Administrative Variance on shed number 1 be upheld, by moving it 3-feet from the property line and applicant will submit an Administrative Variance application for shed number 2, for the same 3-foot setback, within 30 days of this meeting. Ms. James fully supports the request of the second Administrative Variance.

The meeting was opened to public comment. Jennifer James stated that she felt this was the best way to handle this, but she was concerned that there wasn't enough room to move the sheds the 3-feet. She wanted to make sure the county was going to check that. Mickie Nye asked Jennifer James if she has ever had the property surveyed. She stated that she had not, but the previous neighbors had and that is how she knew where her property line was. Bill Marshall asked Jennifer James if she was ok with the sheds being there as long as there was some sort of setback and she stated that was correct. Mary Lou Myers asked Scott Buzan if it was in the purview of the Board to ask the property owner to have the corners established by a licensed surveyor. Scott Buzan stated that yes, they could. Bill Marshall stated that from his experience, the old surveying method (link and chain) that was probably done when this subdivision went in and the new method (by GPS) would probably make the difference between the two methods anywhere between 100-200 feet. I think if the neighbors aren't in dispute about it and reach an agreement about the offset, I think that is the direction we should take. Scott Buzan stated that the owner is responsible for stringing a line showing the property lines. No other public comments. The public comment portion of the meeting was closed.

Mickie Nye motioned that the appeal by Jennifer James be denied and that the Administrative Variance, AV-18-10, be upheld. Also, Julie Griesa will apply for an Administrative Variance for the second shed within 30 days of this meeting. The motion was seconded by Mary Lou Myers. The motion was unanimously approved.

7. **U-18-06 Christopher Pfeil:** Community Development Staff denied the housing of 8 pot-bellied pigs on Mr. Pfeil's property. Application was appealed by Christopher Pfeil on July 12, 2018.

Michelle Dahlke presented the staff report overview. Mr. Pfeil submitted a Use Permit to allow 8 dogs and 8 pot-bellied pigs on his property. This was in response to a compliant that was received by the Code Enforcement Department. A decision letter was issued on June 21, 2018, which is in the agenda packet, that approved, with conditions of the 8 dogs, but denied the use for the 8 pot-bellied pigs. The appeal that Mr. Pfeil filed had some good points, but there are ordinances in our area, such as Payson and Globe, that classifies a pot-bellied pig as a pet, but Gila County's Zoning Ordinance classifies them as livestock. We looked at every possible way we

could permit this, but our Zoning Ordinance will not allow it. What we had looked at, was possibly a text amendment to include pot-bellied pigs. I think it is something we could support. It would, of course, just take time to research and get it approved. In the meantime, our only option, we felt was to uphold the decision for the dogs, but the pot-bellied pigs, we couldn't find a way to do that. We suggested to you, if you find you think it is appropriate, to have his pot-bellied pigs, we have suggested a couple of stipulations for you. (1) There shall be no more than 2 pot-bellied pigs on the property (2) The pot-bellied pigs must not be free to roam the property and should have a designated area when outside. At no time shall the pot-bellied pigs be caged or permitted in the side yards adjacent to adjoining properties (3) Measures will be taken to ensure that the yard is regularly maintained to remove waste (4) There shall be no breeding permitted (5) Both Gila County Health Department and Animal Control have the right to conduct site visits to ensure the health and welfare of the pot-bellied pigs (6) This Use Permit is subject to an annual re-evaluation if deemed necessary (7) Violating any of these conditions shall result in the cancellation of this Use Permit (8) Valid public nuisance complaints received from adjacent or nearby property owners concerning the pot-bellied pigs, shall result in the cancellation of this Use Permit. Staff talked about seeking a Temporary Use Permit to help Mr. Pfeil transition through this, but we are really confined by the wording of the Zoning Ordinance. Chairman Don Ascoli asked Michelle Dahlke to clarify her suggestion that a text amendment be made to modify the classification of pot-bellied pigs and discuss the process. Michelle Dahlke stated that it can be initiated by the Board of Adjustment, by staff or even by the property owner. We would then revise the language to include what we wanted it to say, then it would go before the Planning Commission and the Board of Supervisors for a vote. It would not be something that could be done in a short period of time.

The meeting was opened to public comment. Lisa Head (co-applicant with Mr. Pfeil) stated that there is plenty of yard for them to roam in and they are well taken care of, not abused and not neglected. Also, she smells nothing when she goes in the back yard. I don't see what the problem is and why we can't have them, as long as they are being taken care of. Chairman Don Ascoli stated that because of the code, we are looking for a way to bridge that with you being able to keep the pigs on your property. Christopher Pfeil stated that when he looked at the property a year ago, that he was told by the real estate agent that having pot-bellied pigs wouldn't be a problem because the property is located under Payson jurisdiction. Nothing ever came up that the property was located within the county, or he would have never bought it. He never planned on doing any breeding on the property but had someone in Mesa that would breed them for him, but then he would have to take a few of her pigs because she wouldn't have enough room for them all. Mr. Pfeil also has a few pigs that he rescued from slaughter and is trying to find homes for them, but not having any luck. He also has a female on the property that just gave birth to 8 babies and was able to give them to a friend, but in exchange, got two of her babies. Currently he has 9 pigs on the property, but one pig will be leaving one way or another. Chairman Don Ascoli asked Mr. Pfeil if he ever went back to the real estate agency and asked why he was misled and Mr. Pfeil stated that he did not. Bill Marshall stated that it is unfortunate when realtors mislead you, he knows because he had it happen to him a few times. All you can do is make sure you have done your research before you buy the property and not go on someone's word, unless you get it in writing. It is sad, but that is the way it is. Mary Lou Myers stated that on the purchase contract you have a period of investigation, that you can check on all of these items. As a realtor, we do try to make sure that a buyer has solved all of the issues before they close on an escrow. Mr. Pfeil stated that the pigs were not an issue at that time and that the pigs were on the property for a year before there was any complaint. Mickie Nye stated

that by looking at the area of Mr. Pfeil's lot, it looks like just a standard sized lot. He also asked if the pigs were housed in an enclosure made of pallets. Mr. Pfeil stated that yes, they were. Mr. Pfeil stated that he has also looked into purchasing some forest service land that is behind them but has not heard back from them. Chairman Don Ascoli clarified that there are two parts to this, one being if you can have pigs and the other being how many. Straight from the code, would be zero. Unfortunately, that is what it says, and it is very unfortunate for you that your realtor did not do enough homework and research. Technically on our end, it isn't our obligation to cover up a realtor's mistake. Chairman Don Ascoli asked Michelle Dahlke and Scott Buzan, realistically, if the Board wanted to go through the process of a text amendment, what would be the time frame. Scott Buzan stated probably between 4-6 months and also stated that he wouldn't just bring this change before the commission and the supervisors, that there would be other changes being made, which we are in the process of doing. Chairman Don Ascoli asked if it would be possible for them to grant a Temporary Use Permit for 6 months while these changes were being made. Michelle Dahlke stated that was one thing that was looked at. The Zoning Ordinance has specific uses that fall under the Temporary Use Permit category and we didn't find that this particular issue fit neatly into one of those, however as part of this use permit, it's our opinion that you could actually do it through the use permit. Chairman Don Ascoli asked the other Board members what they thought about that. Mickie Nye stated that he had mixed emotions about this. First being, what is the government's role in my property. In the past we have dealt with horses in people's yard and fly issues, which is when the Health Department has to get involved. We have had to expend resources from the county because of poor decisions and I look at this, honestly and see all these conditions I would have to live by and I don't think it is worth it. I am having a whole lot of problems with any part of this. I think we are just opening up a can of worms and a fight between neighbors. A long-standing issue moving forward, if we do much other than follow the law right now. Bill Marshall stated that he agreed with Mickie Nye and also stated that it is unfortunate, but we can't resolve what was done by the realtor. Mickie Nye asked what the HOA had to say about it. Christopher Pfeil stated that because the pigs are livestock, that they are not allowed, but it is a volunteer only HOA and they can't legally enforce their rules. Mr. Pfeil also stated that they do not pay an HOA fee. Mickie Nye stated that he would like to resolve the issue but doesn't know if it can be. Mr. Pfeil stated that it is going to take time. If they have to sell their house, it could take up to 4 years to get it sold, if it sells at all and the pigs will stay on the property until it is sold. We have looked into boarding them, but we can't find any place to board them. Chairman Don Ascoli asked if the Board denies the appeal, what would the next step be. Scott Buzan stated that you could give them a time frame for getting the pigs off the property. We would then send an inspector out to verify the pigs are gone. If the pigs remain on the property, we would issue them a notice of violation, which would go through the Code Enforcement Department and in front of the hearing officer. Michelle Dahlke did state that if the Board decides to deny the appeal, that the applicant can appeal to the Superior Court. No other public comments. The public comment portion of the meeting was closed.

Mickie Nye motioned that the appeal by Christopher Pfeil be denied and that the original decision for Case No. U-18-06 that was made on June 21, 2018 be upheld, which would allow the housing of 8 dogs on the property, but not allow the housing of 8 pot-bellied pigs on the property. The motion was seconded by Bill Marshall. The motion was approved four to one.

8. Adjournment. Mickie Nye made a motion to adjourn the meeting and Bill Marshall seconded the motion. The motion to adjourn was unanimously approved at 10:04 A.M.